

1 SAM SHERMAN, ESQ. (Bar No. 228673)
shermans@higgslaw.com
2 LOREN G. FREESTONE, ESQ. (Bar No. 191868)
lfreestone@higgslaw.com
3 HIGGS, FLETCHER & MACK LLP
401 West "A" Street, Suite 2600
4 San Diego, CA 92101-7913
TEL: 619.236.1551
5 FAX: 619.696.1410

6 Attorneys for Plaintiff
CARLOTTA BLOUNT, on behalf of herself and on
7 behalf of all persons similarly situated

8
9 UNITED STATES DISTRICT COURT
10 SOUTHERN DISTRICT OF CALIFORNIA

11 CARLOTTA BLOUNT, on behalf of herself
and on behalf of all persons similarly
12 situated,

13 Plaintiff,

14 v.

15 ADP, INC., a New Jersey Corporation;
Wilson Worldwide, LLC, dba Wilson HR;
and DOES 1-50 ,

16 Defendant.
17

CASE NO.

09 CV 1668 JAH POR

COMPLAINT FOR DAMAGES,
RESTITUTION AND INJUNCTIVE RELIEF
AND DEMAND FOR JURY TRIAL

18
19 COMES NOW, Plaintiff, Carlotta Blount ("BLOUNT"), and brings this class and/or
20 collective action against Defendants Automatic Data Processing, Inc. ("ADP") and Wilson
21 Worldwide LLC dba Wilson HR ("WILSON") on behalf of herself and other similarly situated
22 individuals pursuant to the Fair Labor Standards Act, 29 U.S.C. §201 et seq. and California Labor
23 Code sections 201, 203, 510, and 1194 et seq.

24 SUMMARY OF ALLEGATIONS

25 1. BLOUNT alleges that ADP has engaged in a systematic pattern of avoiding paying
26 employees overtime, providing full benefits, and paying severance by misclassifying these
27 employees as "independent contractors" or "contract employees" (hereinafter "Contract
28 Employees") even though these employees worked exclusively for ADP, had their work directed

FILED

09 JUL 31 PM 4:14

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY:

DEPUTY

1 exclusively by ADP supervisors, were required to participate in ADP training and conferences,
2 received reimbursement from ADP for business expenses, received W-2's, and had taxes and
3 withholdings taken out of their paychecks.

4 2. ADP went to such lengths to achieve this Contract Employee ruse that it actually
5 moved employees off its payroll and contracted with outside companies, like WILSON, to "re-
6 hire" these same individuals. Even after the "termination and re-hire," these employees had the
7 same ADP supervisors, ADP projects, ADP training, ADP hardware and software, ADP associate
8 I.D.'s, and ADP payroll. They performed the same work as ADP "employees," but were never
9 provided the full benefits and wages offered to such employees. ADP misclassified them as
10 Contract Employees to avoid paying them the wages and benefits entitled to other ADP
11 employees.

12 3. Even more egregious, ADP then directly told these employees—the same
13 employees they claimed were Contract Employees—to stop billing any hours over forty (40) in a
14 given week because they were exempt. ADP, a company in the business of providing human
15 resource services, told employees it labeled as Contract Employees to not bill over forty hours in
16 a week because they were exempt.

17 PARTIES

18 4. BLOUNT is, and at all times herein mentioned was, a resident of the County of
19 San Diego, State of California and a former employee of ADP and WILSON.

20 5. BLOUNT is informed and believes, and thereon alleges, that at all times herein
21 mentioned, Defendant ADP is a corporation with its principal place of business in Roseland, New
22 Jersey and incorporated under the laws of the State of Delaware.

23 6. BLOUNT is informed and believes, and thereon alleges, that at all times herein
24 mentioned ADP was and is a multi-national corporation with nearly \$9 billion in revenues and
25 over 585,000 clients doing business throughout this state, the United States, and the world. ADP
26 is one of the world's largest providers of business outsourcing solutions.

27 7. ADP is authorized to conduct and does conduct business in the County of San
28 Diego and the State of California. ADP has offices throughout this state, regional offices

1 throughout Southern California, and a regional office in San Diego. ADP further transacts
2 business on a daily basis with clients located throughout this state and county. Finally, ADP hires
3 employees residing in the State of California and the County of San Diego.

4 8. BLOUNT is informed and believes, and thereon alleges, that at all times herein
5 mentioned, Defendant WILSON is a corporation with its principal place of business in Tampa,
6 Florida and incorporated under the laws of the State of Florida.

7 9. BLOUNT is informed and believes, and thereon alleges, that at all times herein
8 mentioned WILSON is a multi-national corporation providing full service human capital
9 solutions to clients across the world.

10 10. WILSON is authorized to conduct and does conduct business in the County of San
11 Diego and the State of California. WILSON contracts with corporations in the State of California
12 and the County of San Diego to provide human capital solutions. WILSON also hires employees
13 residing in the State of California and the County of San Diego.

14 11. The true names and capacities of DOE defendants named herein as DOES 1-50,
15 inclusive, are unknown to BLOUNT who therefore sues such defendants by such fictitious names.
16 BLOUNT will seek leave to amend the complaint to allege the true names and capacities of such
17 DOE defendants when the same is ascertained

18 12. BLOUNT is informed and believes, and thereon alleges, that each fictitiously
19 named defendant is responsible in some manner for the acts or omissions herein alleged and
20 BLOUNT's injuries and damages as herein alleged are directly, proximately and/or legally caused
21 by defendants and all of their acts or omissions.

22 13. BLOUNT is informed and believes and based thereon alleges that each defendant
23 is and, at all times relevant, was the agent or employee of each of the remaining defendants and in
24 committing the acts herein alleged was acting within the scope of his or her authority as agent or
25 employee and with the permission, knowledge and consent of the remaining defendants.

26 14. BLOUNT is further informed and believes and based thereon alleges that at all
27 relevant times each Defendant, directly or indirectly, or through agents or other persons,
28 employed Plaintiff and the other members of the Collective Action Class and the California Class

1 and exercised control over their wages, hours, and working conditions. Plaintiff is informed and
 2 believes and thereon alleges that Defendants were joint-employers of Plaintiff and the other
 3 members of the Collective Action Class and the California Class. At all relevant times to this
 4 action, Plaintiff and the other members of the Collective Action Class and the California Class
 5 have, directly or indirectly, performed services to each of the Defendants and to the mutual
 6 benefit of all Defendants. Plaintiff is informed and believes and thereon alleges that, at all
 7 relevant times, each Defendant was the principal, partner, joint venturer, successor in interest,
 8 and/or predecessor in interest of some or all of the other Defendants, was engaged with some or
 9 all of the other Defendants in a joint enterprise for profit, and bore such other relationships to
 10 some or all of the other Defendants so as to be liable for their conduct with respect to the matters
 11 alleged below. Plaintiff is informed and believes and thereon alleges that each Defendant acted
 12 pursuant to and within the scope of the relationships alleged above, that each Defendant knew or
 13 should have known about and authorized, ratified, adopted, approved, controlled, aided, and
 14 abetted the conduct of all other Defendants.

15 VENUE AND JURISDICTION

16 15. This Court has jurisdiction over Plaintiff's federal claims pursuant to 29 U.S.C.
 17 §201, et seq.; 29 U.S.C. §216, 28 U.S.C. §1331 and 28 U.S.C. §1337(a). The Court has
 18 supplemental jurisdiction over Plaintiff's California-based claims pursuant to 28 U.S.C. §1367.

19 16. Venue in this district is proper pursuant to 28 U.S.C. §1391(b)(i) and (ii) because
 20 Defendants regularly transact business in this District and regularly employ workers in this
 21 District. Plaintiff was employed by Defendants in this District and a substantial portion of the
 22 actions complained of were conducted within this District.

23 GENERAL ALLEGATIONS

24 17. ADP is one of the largest companies in the United States providing HR, payroll,
 25 tax and benefits administration solutions. ADP employs thousands of individuals throughout the
 26 country.

27 18. ADP has a business plan that involves not only using "employees," but classifying
 28 various of its staff as Contract Employees. By affixing the Contract Employee label, ADP avoids

1 paying these individuals overtime, providing them benefits, or paying them the severance offered
2 to individuals ADP classifies as "employees."

3 19. ADP also avoids paying the benefits and wages described above by contracting
4 with third-party staffing companies. These companies, including WILSON and the other Doe
5 Defendants, allow ADP to place its employees on their payroll to further the Contract Employee
6 scheme.

7 20. These Contract Employees, which include BLOUNT and the rest of the Collective
8 and California Class, are not truly employees of WILSON and the other Doe Defendants.
9 Instead, they are jointly employed by ADP as well as WILSON and the other Doe Defendants.
10 ADP and the other Defendants co-determined those matters governing the essential terms and
11 conditions of their employment. Even though ADP and WILSON are these employees' joint
12 employer, they are not provided the salary, benefits, or wages of other ADP employees. ADP
13 uses the Contract Employee ruse to avoid paying them the same salary, benefits, and wages
14 provided to others.

15 21. Despite the Contract Employee label, these individuals are indistinguishable from
16 ADP employees. All of them work in groups alongside "employees" and perform the same
17 services, work the same hours, and report to the same supervisors. These Contract Employees
18 have ADP laptops, ADP software, access to ADP's intranet and help desk, ADP associate
19 identification numbers, and ADP employee badges. They receive direction directly from ADP
20 supervisors, submit their hours to ADP for processing, seek reimbursement for business expenses
21 directly from ADP, participate in required ADP training, attend mandatory ADP conferences, and
22 interviewed for their jobs with ADP alone. These individuals are identical to ADP employees in
23 every sense of the word and are forced to work alongside those employees and watch them
24 receive better wages, benefits, and severance because of an artificial label attached by ADP.

25 **SHARED SERVICES SALES RECRUITING TEAM**

26 22. The Shared Services Sales Recruiting Team ("Shared Services") is a group within
27 ADP that exemplifies this business practice. Shared Services is a branch of ADP with the sole
28 focus of recruiting a sales force to sell ADP's services to businesses around the country.

1 23. Prior to 2006, ADP classified each member of the Shared Services group as an
2 “employee.” These employees interviewed with ADP, were hired by ADP, and received their
3 paychecks directly from ADP.

4 24. In 2006, ADP inexplicably decided that it no longer wanted to employ the
5 members of Shared Services. ADP wanted to receive the benefit of these individuals’ full-time
6 efforts, but did not want to provide them the wages, salary, and benefits offered to its
7 “employees.” However, ADP knew that each of these employees were just that—employees.
8 Therefore, it needed a scheme to achieve this objective.

9 25. ADP’s scheme involved reclassifying these employees as Contract Employees.
10 ADP felt that, by labeling them independent contractors, it could obtain the benefit of their full-
11 time work for the company without being burdened with providing them full wages and benefits.

12 26. In a further attempt to distance itself from these employees, ADP entered into
13 contracts with third-party staffing companies to “employ” these individuals. ADP essentially
14 terminated each employee from its payroll in 2006 and had them “re-hired” by WILSON and Doe
15 Defendants. ADP classified these former employees as Contract Employees from that day
16 forward.

17 27. ADP blurred the employer line from the moment it terminated these employees
18 and had them “re-hired” by WILSON and the Doe Defendants. Some former ADP employees
19 received letters from ADP after their re-hire. These letters, on ADP letterhead and signed by
20 ADP supervisors, congratulated these former employees and offered them a “conditional offer of
21 employment” with ADP. ADP sent these letters despite the fact that it claimed it no longer
22 employed these individuals and that they were now employees of WILSON and Doe Defendants.

23 28. The work of the Contract Employees never changed after they were “re-hired” by
24 WILSON and Doe Defendants. They performed their work on ADP laptops that ran ADP
25 software. They received their work assignments every week from ADP supervisors. They were
26 required to report back to their ADP supervisors every Friday regarding the status of their projects
27 for that week. They received ADP training materials and were required to participate in ADP on-
28 line training. Once per year, they were required to attend a week-long conference offered by

1 ADP to its employees. They were required to submit all business costs for reimbursement to
2 ADP supervisors for approval. WILSON and the other Doe Defendants would not refund these
3 business expenses absent ADP approval. These employees had ADP associate identification
4 numbers that gave them access to ADP's intranet. Some had ADP employee badges.

5 29. Even though ADP, WILSON, and Doe Defendants created the illusion that these
6 individuals were Contract Employees, they only worked for ADP. At no time did they ever work
7 on any of the other accounts held by WILSON or Doe Defendants.

8 30. These employees' only interaction with WILSON and Doe Defendants involved
9 submitting their weekly hours for payroll. WILSON and Doe Defendants then had ADP process
10 these employees' checks. The checks had taxes, social security, and all other deductions taken
11 out. Defendants never paid any of these individuals as 1099's or gave any of them 1099's for tax
12 purposes.

13 31. ADP never provided any of the benefits to these Contract Employees that it
14 provided to its other employees. Regular employees were provided a full benefits package that
15 included health insurance, dental insurance, stock options, prescription drugs, vision coverage,
16 life insurance, disability insurance, business travel insurance, personal accident insurance,
17 retirement and 401(k) plans, tuition reimbursement, and pension benefits. WILSON and Doe
18 Defendants did not provide these same benefits and the benefits they did provide came at a higher
19 cost than comparable benefits offered by ADP.

20 32. ADP also denied these employees any overtime pay. On or before 2006, ADP
21 allowed Shared Services team members to bill overtime. BLOUNT was one such employee that
22 billed overtime during this period. In 2006, BLOUNT was informed by her ADP supervisor that
23 she had to stop billing overtime work. Her ADP supervisor, Ted Moore, informed her that she
24 was now categorized as "exempt" and that she could no longer bill overtime. Plaintiff is
25 informed and believes that other class members received this same direction from other ADP
26 supervisors, WILSON, and Doe Defendants.

27 33. ADP told these employees they were exempt in spite of the fact that they fell into
28 none of the exemptions under California or federal law and the fact that ADP treated them as non-

1 exempt employees. ADP required each employee to submit weekly billings of the hours worked
2 and only paid these employees for time billed. They also informed them they were "exempt"
3 despite the fact that, at the same time, ADP took the position they were Contract Employees.

4 34. ADP also denied overtime for work performed at mandatory training conference.
5 ADP required Shared Services to attend an annual conference in a host city. Each member of
6 Shared Services coordinated their travel to the conference through ADP's travel department with
7 all air and hotel accommodations pre-paid directly by ADP. ADP allowed these employees to bill
8 the time spent at the annual training conference, however, ADP did not allow Plaintiff to bill any
9 time at the training in excess of 40 hours per week. Defendants knew that these employees were
10 working in excessive of sixty (60) hours per week during this training, but refused to allow these
11 individuals to bill overtime or any hours over forty (40). Several individuals asked if they could
12 bill over forty hours during this week to reflect the time actually spent. The ADP supervisors
13 denied this request.

14 35. Further, through its management of the employees in the Shared Services team,
15 ADP and the other Defendants knew that these employees could not perform the work assigned in
16 just forty (40) hours a week. ADP and the other Defendants gave these employees complex and
17 varied tasks throughout the week. Defendants knew that it was impossible for these employees to
18 complete these tasks within forty (40) hours and that overtime would be required.

19 36. Despite this knowledge, ADP created a culture that prevented these employees
20 from billing any overtime for work performed. Plaintiff knew that she was not to bill over forty
21 hours and that ADP would not compensate her for any time over forty hours. On average,
22 Plaintiff's job duties required her to work fifty (50) to sixty (60) hours per week.

23 37. ADP eventually began to transfer some of these Contract Employees back to its
24 payroll. Plaintiff is informed and believes that ADP did so out of a recognition of its joint
25 employer and misclassification errors. However, ADP chose a gradual transfer rather than
26 transferring everyone at once and raising suspicions.

27 38. From 2006 to the present, ADP began to slowly transfer Shared Services
28 employees back onto its payroll. From that point forward, a group of Shared Services employees

1 were labeled as ADP employees and some were labeled as Contract Employees. The Contract
2 Employees and the regular employees worked alongside each other doing the same work,
3 working the same hours, and reporting to the same supervisors. The Contract Employees,
4 however, had to watch the "employees" receive greater wages and benefits for the same exact
5 work.

6 39. Beginning in late 2008, ADP began laying off various employees. ADP's
7 severance program calculated an employee's severance based on his or her salary and length of
8 employment. This severance could equal up to twenty-six (26) weeks. On the other hand, ADP
9 only allowed its Contract Employees to receive a maximum of two (2) weeks severance. The
10 "contract" employees were informed of this "severance" from ADP directly rather than WILSON
11 or Doe Defendants.

12 40. ADP had various methods of informing a member of Shared Services of his or her
13 termination. Some employees learned of their termination from ADP several weeks before the
14 effective date and only received a call from WILSON on their last day of employment to
15 officially provide them notice of same. Other Contract Employees never heard anything from
16 ADP. Those employees received a call from WILSON informing them that they were terminated
17 effective immediately. Neither WILSON nor any of the other Doe Defendants offered these
18 Contract Employees work on other accounts.

19 41. The Contract Employees that had no notice of their termination effectively receive
20 no severance at all. By contacting them and terminating them effective immediately, the
21 "severance" was really nothing more than two week's notice of termination.

22 42. In May of 2009, ADP made the decision to "terminate" an entire group of Shared
23 Services employees working for WILSON and Doe Defendants. ADP alone made that decision
24 and neither WILSON nor Doe Defendants had any role in the decision-making. The terminated
25 employees were then required to re-apply for "new" positions with ADP. These new positions
26 were nothing but their same jobs, but now under ADP's exclusive employment. All but a handful
27 were rehired as full-time ADP employees.
28

1 43. The employees not re-hired were never contacted by WILSON or Doe Defendants
2 until the day of their termination to inform them that their employment was terminated effective
3 immediately. These employees received ADP's standard two-week Contract Employee
4 severance package rather than the employee package. None of the employees terminated by ADP
5 were provided any alternative work with WILSON or Doe Defendants.

6 44. Shared Services merely provides one example of the efforts made by ADP to avoid
7 its requirements under the FLSA and other California and federal laws. Plaintiff is informed and
8 believes that ADP misclassified other employees to avoid wage and hour laws and contracted
9 with entities other than WILSON to achieve these goals. Plaintiff is informed and believes there
10 are hundreds of misclassified employees entitled to wages, benefits, and severance never paid by
11 ADP.

12 45. Defendants' unlawful, unfair, and deceptive employment and wage practices
13 denied Plaintiff and the other class members their lawful wages due for all hours worked as
14 required by California and federal law.

15 46. In this action, Plaintiff, on behalf of herself and the class, seeks to recover all the
16 money that Defendants were required by law to pay, but failed to pay, to Plaintiff and all other
17 class members for work performed. Plaintiff also seeks to recover all benefits owed to her and all
18 wages Defendants failed to pay. These wages include, among other things, overtime and
19 severance. Plaintiff also seeks penalties and all other relief available to her and other similarly
20 situated employees under California law. Plaintiff also seeks declaratory relief finding that the
21 Defendants' employment practices and policies violated California law and injunctive relief to
22 enjoin the Defendants from continuing to engage in such employment practices and as necessary
23 to remedy the unfair and unlawful employment practices.

24 47. Plaintiff and all members of the class are and were classified under California and
25 federal law as non-exempt from applicable federal and state labor laws. Plaintiff and the other
26 members of the class do not meet the requirements of exempt employees under California or
27 federal law.

28 ///

FLSA COLLECTIVE ACTION ALLEGATIONS

48. The Collective Action Class consists of all current and former employees of Defendants that report to and/or were supervised by ADP, were identified as independent contractors (and specifically "Contract Employees"), and received pay checks from entities other than ADP. ("Collective Action Class")

49. In this collective action, Plaintiff seeks to represent all individuals who, at any time during the three years preceding the filing of this Complaint, fall into the definition of the Collective Action Class.

50. Plaintiff is similarly situated with the Collective Action Class in that: (a) Plaintiff and the Collective Action Class were jointly employed by ADP and ADP's contractors; (b) Plaintiff and the Collective Action Class were not paid overtime and minimum wages for all hours worked; (c) Plaintiff and the Collective Action Class were not provided the compensation and benefits of ADP employees even though ADP was their joint employer; (d) Plaintiff and the Collective Action Class were only provided two-weeks severance upon termination while individuals classified by ADP as "employees" were provided up to twenty-four (24) weeks of severance; (e) Defendants knowingly and willfully violated provisions of the FLSA by not paying Plaintiff and the Collective Action Class their wages, benefits, and severance; and (d) as a result of Defendants' conduct, Plaintiff and the Collective Action Class have been similarly damaged in that they have not received full wages and benefits earned.

51. This Action is maintained as an "opt-in" collective action pursuant to 29 U.S.C. §216(b) given the similarity of claims. Plaintiff is also entitled to liquidated damages, costs and attorneys' fees under the FLSA.

52. All individuals employed by Defendants as Contract Employees should be given notice and be allowed to give their consent in writing to the collective action pursuant to 29 U.S.C. §216(b).

53. The names and addresses of the Collective Action Class are available from Defendants and notice should be provided to the Collective Action Class as soon as possible.

///

CALIFORNIA CLASS ACTION ALLEGATIONS

54. The California Class consists of all current and former employees of Defendants that report to and/or were supervised by ADP, were identified as independent contractors (and specifically "Contract Employees"), and received pay checks from entities other than ADP. ("Collective Action Class") The California Class is restricted to individuals residing in the State of California during the California Class period.

55. The California Class brings various causes of action for violation of California's wage and hour laws as a class action, pursuant to Fed. R. Civ. P.23 (a), (b)(2), and (b)(3), on behalf of all California Class members.

56. The California Class is so numerous that joinder of all members is impracticable. Plaintiff is informed and believes, and on that basis alleges, that during the California Class Period defendants have employed at least one hundred persons who satisfy the definition of the California Class.

57. Despite the class members numerosity, their identities are readily ascertainable through an examination of Defendants' records, which it is required by law to maintain. Likewise, the dollar amount owed to the California Class is also readily ascertainable by an examination of those same records.

58. Common questions of law and fact exist as to members of the California Class, including, but not limited to, the following:

a. Whether Defendants unlawfully failed to pay overtime compensation in violation of the California Unfair Competition Law, Cal. Bus. & Prof. Code § 17200 et seq., and the California Labor Code and related regulations, Cal. Labor Code §§ 201, 202, 203, 226, 510, 1174, 1174.5, and 1194, Cal. Wage Order No. 4.

b. Whether the Plaintiffs and the Class members are non-exempt employees entitled to overtime compensation for overtime hours worked under the overtime pay requirements of California law;

c. Whether Defendants' policy and practice of classifying the California Class members as exempt from overtime entitlement under California law and Defendants' policy and

1 practice of failing to pay overtime to the California Class members violate applicable provisions
2 of California law, including applicable statutory and regulatory authority;

3 d. Whether Defendants' unlawfully failed to keep and furnish California
4 Class members with records of hours worked, in violation of Labor Code §§ 226 and 1174;

5 e. Whether Defendants failed to provide the California Class with meal and
6 rest periods pursuant to California law and Industrial Welfare Commission Orders;

7 f. Whether Defendants failed to provide the California Class with full
8 benefits provided to other employees as required under California law and Industrial Welfare
9 Commission Orders;

10 g. Whether Defendants' policy and practice of failing to pay the California
11 Class all wages due within the time required by law after their employment ended violates
12 California law; and

13 h. The proper measure of damages sustained and the proper measure of
14 restitution recoverable by members of the California Class.

15 59. Plaintiff's claims are typical of the Class members' claims. Plaintiff, like other
16 Class members, was subjected to Defendants' policies and practices of refusing to pay overtime,
17 benefits, and severance in violation of California law. Plaintiff's job duties were typical of those
18 of other Class members.

19 60. Plaintiff will fairly and adequately represent and protect the interests of the
20 California Class. Plaintiff has retained counsel competent and experienced in complex labor and
21 employment litigation.

22 61. Class certification of the California state law claims is appropriate pursuant to Fed.
23 R. Civ. P. 23(b)(2) because Defendants have acted or refused to act on grounds generally
24 applicable to the Class, making appropriate declaratory and injunctive relief with respect to
25 Plaintiff and the California Class as a whole. Plaintiff and the California Class are entitled to
26 injunctive relief to end Defendants' common and uniform practice of failing to properly
27 compensate its employees for all overtime work performed for the benefit of Defendants.
28

62. Class certification of the California law causes of action is also appropriate under Fed. R. Civ. P. 23(b)(3) because questions of law and fact common to the California Class predominate over any questions affecting only individual members of the California Class, and because a class action is superior to other available methods for the fair and efficient adjudication of this litigation. Defendants' common and uniform policy and practice of unlawfully treating members of the California Class as exempt from overtime pay requirements violates California law. The damages suffered by individual California Class members are small compared to the expense and burden of individual prosecution of this litigation. In addition, class certification is superior because it will obviate the need for unduly duplicative litigation that might result in inconsistent judgments about Defendants' practices.

63. Plaintiff intends to send notice to all members of the California Class to the extent required by Rule 23.

ERISA CLASS ACTION ALLEGATIONS

64. Plaintiff brings certain causes of action for violations of ERISA as a nationwide class action pursuant to FRCP 23(a) and (b)(1) and/or (b)(2) as representatives of a proposed ERISA Class.

65. The ERISA class consists of all current and former employees of Defendants that were misclassified as Contract Employees and, as such, did not receive the same wages, benefits, and severance as individuals classified as ADP employees. Plaintiff only maintains this class action claim to the extent this Court later determines that Defendants' benefits and severance plans qualify as an ERISA plan. Plaintiff and the ERISA Class will drop this claim if the Court later determines that these benefits and severance programs do not qualify as an ERISA plan.

66. The ERISA Class is so numerous that joinder of all members is impracticable. Plaintiff is informed and believes and thereon alleges that during the applicable period, Defendants employed several hundred persons that satisfy the definition of the ERISA Class.

67. Questions of law and fact common to the ERISA Class as a whole include, but are not limited to, the following:

1 a. Whether Defendants failed and continues to fail to maintain accurate
2 records of actual time worked and wages earned by the Plaintiff and the ERISA Class;

3 b. Whether Defendants failed and continue to fail to provide accurate wage
4 statements itemizing all actual time worked and wages earned by the Plaintiff and the ERISA
5 Class;

6 c. Whether Defendants continue to violate ERISA as alleged herein;

7 d. Whether Defendants provided Plaintiff and the ERISA Class with all
8 benefits afforded to individuals Defendants classified as "employees;"

9 e. Whether Defendants paid Plaintiff and the ERISA Class the severance
10 provided to individuals Defendants classified as "employees;"

11 f. Whether Defendants paid Plaintiff and the ERISA class all compensation
12 which they were paid or entitled to be paid as required by ERISA;

13 68. Plaintiff's claims are typical of those of the ERISA Class. Plaintiff, like all other
14 ERISA Class members, was subject to Defendants' policies and practices of failing to
15 compensate for overtime worked, failing to provide full benefits given to other employees, and
16 failing to provide the severance package provided to other employees.

17 69. Plaintiff will fairly and adequately represent and protect the interests of the ERISA
18 Class. Plaintiff has retained counsel competent and able to handle the legal issues involved in this
19 case.

20 70. Class certification of the ERISA claims is appropriate pursuant to FRCP 23(b)(1)
21 because adjudication with respect to individual members of the class would, as a practical matter,
22 be dispositive of the interests of the other members and/or pursuant to FRCP 23(b)(2) because
23 Defendants acted or refused to act on grounds generally applicable to the ERISA Class, making
24 appropriate declaratory and injunctive relief with respect to Plaintiff and the ERISA Class as a
25 whole.

26 71. Plaintiff intends to send notice to all members of the ERISA Class to the extent
27 required by Rule 23.

28 ///

FIRST CLAIM FOR RELIEF

(Fair Labor Standards Act, 29 U.S.C. § 201 et seq.,

Brought by Plaintiff on Behalf of Herself and the Collective Action Class)

72. Plaintiff, on behalf of herself and all Plaintiffs, realleges and incorporate by reference the preceding paragraphs as if they were set forth again herein.

73. At all relevant times, Defendants have been, and continue to be, "employers" engaged in interstate "commerce" and/or in the production of "goods" for "commerce," within the meaning of the FLSA, 29 U.S.C. § 203. At all relevant times, Defendants have employed, and continues to employ, "employee[s]," including Plaintiff, and each of the Collective Action Class. At all relevant times, Defendants have had gross operating revenue in excess of \$500,000.

74. Attached hereto is a consent to sue signed by Plaintiff in this action pursuant to § 16(b) of the FLSA, 29 U.S.C. §§ 216(b) and 256. (Exhibit "A".) It is likely that other individuals will sign consent forms and join as plaintiffs on this claim in the future.

75. The FLSA requires each covered employer, such as ADP and WILSON, to compensate all non-exempt employees at a rate of not less than one and one-half times the regular rate of pay for work performed in excess of forty hours in a work week.

76. The Collective Action Class is entitled to be paid overtime compensation for all overtime hours worked.

77. At all relevant times, ADP and WILSON, pursuant to its policies and practices, failed and refused to pay overtime premiums to the Collective Action Class for their hours worked in excess of forty hours per week.

78. By failing to compensate Plaintiff and the Collective Action Class at a rate not less than one and one-half times the regular rate of pay for work performed in excess of forty hours in a workweek, Defendants have violated, and continues to violate, the FLSA, 29 U.S.C. §§ 201, et seq., including 29 U.S.C. § 207(a)(1) and § 215(a).

79. By failing to record, report, and/or preserve records of hours worked by Plaintiff and the Collective Action Class, Defendants have failed to make, keep, and preserve records with respect to each of its employees sufficient to determine their wages, hours, and other conditions

1 and practice of employment, in violation of the FLSA, 29 U.S.C. §§ 201, et seq., including 29
2 U.S.C. § 211(c) and § 215(a).

3 80. Defendants further violated the FLSA by failing to provide Plaintiff and the
4 Collective Action Class with all benefits entitled to them as ADP employees. Plaintiff and the
5 Collective Action Class were also denied severance they were entitled to as ADP employees.

6 81. The foregoing conduct, as alleged, constitutes a willful violation of the FLSA
7 within the meaning of 29 U.S.C. § 255(a).

8 82. Named Plaintiffs, on behalf of themselves and the Collective Action Class, seek
9 recovery of their attorneys' fees and costs of action to be paid by Defendants, as provided by the
10 FLSA, 29 U.S.C. § 216(b).

11 83. Named Plaintiff, on behalf of herself and the Collective Action Class, seek
12 damages in the amount of their respective unpaid overtime compensation, liquidated damages as
13 provided by the FLSA, 29 U.S.C. § 216(b), interest, and such other legal and equitable relief as
14 the Court deems just and proper.

15 **SECOND CLAIM FOR RELIEF**

16 **(Cal. Wage Order No. 4; Cal. Labor Code §§ 510, 1194**

17 **Brought by Plaintiff on Behalf of Herself and the California Class)**

18 84. Plaintiff, on behalf of herself and all California Class, realleges and incorporates
19 by reference the preceding paragraphs as if they were set forth again herein.

20 85. California law requires an employer, such as Defendant, to pay overtime
21 compensation to all non-exempt employees for all hours worked over 40 per week, or over eight
22 per day.

23 86. Plaintiff and the California Class are non-exempt employees entitled to be paid
24 overtime compensation for all overtime hours worked.

25 87. Throughout the California Class Period, and continuing through the present, the
26 Plaintiff and the California Class worked in excess of eight hours in a workday and/or forty hours
27 in a workweek.

28 ///

FOURTH CLAIM FOR RELIEF

(California Record-Keeping Provisions,

Cal. Wage Order No. 4; Cal. Labor Code §§ 226, 1174, & 1174.5,

Brought by Plaintiff on Behalf of Herself and the California Class)

95. Plaintiff, on behalf of herself and all California Class, realleges and incorporates by reference the preceding paragraphs as if they were set forth again herein.

96. California Labor Code §226 provides that an employer must furnish employees with “an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by employees, (3) the number of piece rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and his or her social security number, except that by January 1, 2008, only the last four digits of his or her social security number of an employee identification number other than a social security number may be shown on the itemized statement, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.”

97. At all times relevant herein, Defendants violated Labor Code §226 with respect to Plaintiff and other members of the California Class, in that Defendants failed to properly and accurately itemize the gross wages earned, the net wages earned, and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate for these employees. This failure by Defendants was the intentional result of Defendants’ intentional refusal to institute a system for accurately recording hours worked and Defendants’ orders and instructions to Plaintiff and the California Class to exclude and delete their overtime hours worked from the hours reported on their time sheets.

98. Defendants knowingly and intentionally failed to comply with the Labor Code §226, causing damages to Plaintiff, and the other members of the class. These damages include, but are not limited to, unpaid wages for hours actually worked, the costs expended calculating the

1 true hours worked, and the amount of employment taxes which were not properly paid to state
 2 and federal tax authorities. These damages may be difficult to estimate. Therefore, Plaintiff, and
 3 the other members of the California Class, may recover liquidated damages for the initial pay
 4 period in which the violation occurred and each violation in subsequent pay period pursuant to
 5 Labor Code §226, in an amount according to proof at the time of trial, plus costs.

6 **FIFTH CLAIM FOR RELIEF**

7 **(California Meal Period Provisions,**

8 **Cal. Wage Order No. 4; Cal. Labor Code §§ 218.5, 226.7, & 512,**

9 **Brought by Plaintiff on Behalf of Herself and the California Class)**

10 99. Plaintiff, on behalf of herself and the California Class, realleges and incorporates
 11 by reference the preceding paragraphs as if they were set forth again herein.

12 100. Plaintiff and the California Class regularly work and have worked in excess of five
 13 hour shifts without being afforded at least a half-hour meal break in which they were relieved of
 14 all duty, as required by Labor Code §§ 226.7 and 512 and Wage Order No. 4-2001, § 11(a). In
 15 fact, as part of Defendants scheme of informing Plaintiff that she was exempt, Defendants did not
 16 even inform Plaintiff of her right to take a meal and rest period.

17 101. As a result of Defendant's failure to afford proper meal periods, it is liable to
 18 Plaintiffs and the California Class for one hour of additional pay at the regular rate of
 19 compensation for each workday that the proper meal periods were not provided, pursuant to
 20 Labor Code § 226.7 and Wage Order No. 4-2001, § 11(b).

21 **SIXTH CLAIM FOR RELIEF**

22 **(California Unfair Competition Law, Cal. Bus. & Prof. Code §17200 et seq.,**

23 **Brought by the Plaintiff on Behalf of Herself and the California Class)**

24 102. Plaintiff, on behalf of herself and the California Class, realleges and incorporates
 25 by reference the preceding paragraphs as if they were set forth again herein.

26 103. The foregoing conduct, as alleged, violates the California Unfair Competition Law
 27 ("UCL") as codified at Cal. Bus. & Prof. Code § 17200 et seq. Section 17200 prohibits unfair
 28 competition by prohibiting any unlawful or unfair business acts or practices.

1 104. Beginning at a date unknown to Plaintiffs, but at least as long ago as 2005,
2 Defendants committed, and continues to commit, acts of unfair competition, as defined by the
3 UCL, by, among other things, engaging in the acts and practices described herein. Defendants'
4 conduct as herein alleged has injured the California Class by wrongfully denying them earned
5 wages, and therefore was substantially injurious to the California Class.

6 105. Defendant engaged in unfair competition in violation of the UCL by violating each
7 of the laws alleged in this Complaint. Each of these violations constitutes an independent and
8 separate violation of the UCL. These laws include, but are not limited to, California Labor Code
9 §§201, 202, 203, 204, 226, 510, 1174, and 1194.

10 106. Defendants' course of conduct, acts, and practices in violation of the California
11 laws mentioned in the above paragraph constitute a separate and independent violation of the
12 UCL. Defendants' conduct described herein violates the policy or spirit of such laws or
13 otherwise significantly threatens or harms competition.

14 107. The harm to California Class in being wrongfully denied lawfully earned wages
15 outweighs the utility, if any, of Defendants' policies or practices and, therefore, Defendants'
16 actions described herein constitute an unfair business practice or act within the meaning of the
17 UCL.

18 108. The unlawful and unfair business practices and acts of Defendants, described
19 above, have injured the California Class in that they were wrongfully denied the payment of
20 earned overtime wages.

21 109. Plaintiff, on behalf of herself and the California Class, seeks recovery of attorneys'
22 fees and costs of this action to be paid by Defendants, as provided by the UCL and California
23 Labor Code §§ 218, 218.5, and 1194.

24 110. Plaintiff, on behalf of herself and the California Class, seek restitution in the
25 amount of the respective unpaid wages earned and due at a rate not less than one and one- half
26 times the regular rate of pay for work performed in excess of forty hours in a work week, or eight
27 hours in a day, and double the regular rate of pay for work performed in excess of twelve hours
28 per day, as well as the additional statutory amount provided by California Labor Code §§ 2698

1 and 2699. Plaintiff also seeks such other legal and equitable relief from ADP's unlawful and
 2 willful conduct as the Court deems just and proper.

3 SEVENTH CLAIM FOR RELIEF

4 **(ERISA 502(A)(3) to Remedy Failures to Credit Service as Required by ERISA**

5 **Brought by Plaintiff on Behalf of Herself and the ERISA Class)**

6 111. Plaintiff, on behalf of herself and all Plaintiffs, realleges and incorporates by
 7 reference the preceding paragraphs as if they were set forth again herein.

8 112. ERISA § 404(a)(1), 29 U.S.C. § 1104(a)(I), requires that employee benefit plan
 9 fiduciaries discharge their duties with respect to the plan solely in the interest of the participants
 10 and beneficiaries and, among other things, (1) for the exclusive purpose of providing benefits to
 11 participants and their beneficiaries and defraying reasonable expenses of administration; (2) with
 12 the care, skill, prudence, and diligence under the circumstances that a prudent person acting in a
 13 like capacity and familiar with such matters would use in the conduct of an enterprise of like
 14 character and with like aims; and (3) in accordance with the documents and instruments
 15 governing the plan.

16 113. On information and belief, the provisions of the governing instruments confer on
 17 Defendants discretionary authority, responsibility, and/or control with respect to the crediting of
 18 compensation, thereby rendering Defendants fiduciaries in that regard.

19 114. On further information and belief, Defendants have exercised actual discretionary
 20 authority, responsibility, and/or control in determining what compensation would and would not
 21 be credited under its compensation plans. By reason of the exercise of such discretion,
 22 Defendants have been fiduciaries of the plans with respect to the crediting of compensation.

23 115. On further information and belief, Defendants have exercised actual discretionary
 24 authority, responsibility, and/or control in determining what compensation would and would not
 25 be credited by its various compensation plans. By reason of the exercise of such discretion,
 26 Defendants have been fiduciaries of its plans with respect to the crediting of compensation.

27 116. Defendants have breached its fiduciary duties by failing to credit compensation to
 28 Plaintiffs. This compensation includes, but is not limited to, health insurance, dental insurance,

1 stock options, prescription drugs, vision coverage, life insurance, disability insurance, business
 2 travel insurance, personal accident insurance, retirement and 401(k) plans, pension benefits,
 3 tuition reimbursement, and severance pay. Plaintiff does not concede these benefits fall under
 4 ERISA's pre-emption, but maintains this cause of action to the extent a court of law determines
 5 the preemption applies.

6 117. Pursuant to ERISA § 502(a)(3), 29 U.S.C. § 1132(a)(3), Plaintiff, on behalf of
 7 herself and all members of the ERISA Class, seeks an injunction requiring Defendants to credit
 8 all members of the ERISA Class with compensation under the plans for all of the past and future
 9 overtime work performed and all benefits Plaintiff was entitled to and any such other equitable
 10 relief as this Court deems appropriate.

11 118. Plaintiff on behalf of herself and members of the ERISA Class, seeks recovery of
 12 her attorneys' fees and costs to be paid by Defendants, as provided by Section 502(g)(1) of
 13 ERISA, 29 U.S.C. § 1132(g)(1).

14 **PRAYER FOR RELIEF**

15 WHEREFORE, Plaintiff prays judgment for herself and all others on whose behalf this
 16 suit is brought, against Defendants, jointly and severally, as follows:

17 **1. On behalf of the Collective Action Class**

- 18 a. For certification of the Collective Action Class as an opt-in Collective Action
- 19 pursuant to 29 U.S.C. §216(b);
- 20 b. For appointment of Plaintiff as the representative of the Collective Action Class;
- 21 c. For appointment of Counsel for Plaintiff as Class Counsel for the Collective
- 22 Action Class;
- 23 d. That the Court declare the rights and duties of the parties consistent with the relief
- 24 sought by Plaintiff;
- 25 e. Issue a declaratory judgment that Defendants' acts, policies, practices, and
- 26 procedures complained of herein violation provisions of the FLSA;
- 27 f. That Defendants be enjoined from further violations of the FLSA;
- 28

- 1 g. That Plaintiff and the Collective Action Class recover compensatory damages and
 2 an equal amount of liquidated damages as provided under the law and in 29 U.S.C.
 3 §216(b).

4 **2. On behalf of the California Class**

- 5 a. For certification of the Second through Sixth Causes of Action as a Class Action
 6 pursuant to California Code of Civil Procedure §382 and/or FRCP 23;
 7 b. For appointment of Plaintiff as the representative of the California Class;
 8 c. For appointment of Counsel for Plaintiff as Class Counsel for the California Class;
 9 d. An order temporarily, preliminarily and permanently enjoining and restraining
 10 Defendants from engaging in similar unlawful conduct as set forth herein;
 11 e. An order requiring Defendants to pay all wages and all sums unlawfully withheld
 12 from compensation due to Plaintiff and the other members of the Class;
 13 f. Disgorgement of Defendants' ill-gotten gains into a fluid fund for restitution of the
 14 sums incidental to Defendants' violations due to Plaintiff and to the other members
 15 of the Class;
 16 g. Compensatory damages, according to proof at the time of trial, including
 17 compensatory damages for both regular and overtime compensation due Plaintiff
 18 and the other members of the Class, during the applicable class period plus
 19 interests thereon at the statutory rate;
 20 h. The greater of all actual damages or fifty dollars for the initial pay period in which
 21 a violation occurs and one hundred dollars per each member of the class for each
 22 violation in a subsequent pay period, not exceeding an aggregate penalty of four
 23 thousand dollars, and an award of costs for violations of the applicable Labor
 24 Codes;
 25 i. For minimum wages, regular wages, and overtime wages for all work performed
 26 off-the-clock and unpaid wages for all work for which Class Members were not
 27 paid, including liquidated damages;
 28

- j. For additional compensation for Defendants' failure to provide rest and meal periods;
- k. For waiting time continuation of wages for up to thirty (30) days, as provided for in California Labor Code § 203, for all California Class members who are no longer employed by Defendants;
- l. For the amounts provided for in California Labor Code § 226(e);
- m. For restitution, as described in the claim for relief under California Bus. & Prof. Code §§17200 et seq., above.

3. On behalf of the ERISA Class

- a. Certification of this action as a class action on behalf of the proposed ERISA Class;
- b. Designation of Plaintiff as representative of the ERISA Class;
- c. A declaration that the practices complained of herein violate ERISA;
- d. Appropriate equitable and injunctive relief to remedy Defendants' violations of ERISA;
- e. A declaration that Defendants have breached its fiduciary duties by failing to credit Plaintiff and the ERISA Class with eligible compensation for all work performed, as required by ERISA and the terms of the applicable plans;
- f. An order required that Defendants remedy its breaches of fiduciary duty by crediting Plaintiff and the ERISA Class for all of their past, present, and future uncompensated work;
- g. Attorneys' fees and costs of suit; and
- h. Such other injunctive and equitable relief as the Court may deem necessary, just, and proper.

4. On all causes of action.

- a. For such general, special, and liquidated damages as may be appropriate, including all damages alleged above.
- b. For pre-judgment interest.

- 1 c. For costs of suit and attorneys' fees under the FLSA and California Labor Code §
2 1194 and other applicable provisions of law outside the Labor Code.
3 d. For such other relief as the Court deems just and proper.

4 **JURY DEMAND**

5 Pursuant to Rule 38 of the FRCP, Plaintiff demands a trial by jury on all applicable issues.

6
7 DATED: July 31, 2009

HIGGS, FLETCHER & MACK LLP

8
9 By: 

10 SAM SHERMAN, ESQ.
11 LOREN G. FREESTONE, ESQ.
12 Attorneys for Plaintiff
13 CARLOTTA BLOUNT, on behalf of
14 herself and on behalf of all persons
15 similarly situated
16
17
18
19
20
21
22
23
24
25
26
27
28

CONSENT TO SUE FORM

Consent to sue under the Fair Labor Standards Act (FLSA)

I work or worked for Automatic Data Processing, Inc. (ADP), or a company contracting with ADP, at some point after July 1, 2006 as a "contract employee" or "independent contractor."

I choose to participate in the FLSA collective action titled *Blount v. ADP, Inc., et al.*, Case No. _____ (S.D. Cal.). I agree to be bound by any adjudication of this action by the Court, whether it is favorable or unfavorable. I further agree to be bound by any collective action settlement approved by my attorneys and the Court as fair, adequate, and reasonable.

I choose to be represented in this matter by the named Plaintiff in this action and by the attorneys who already represent Plaintiff in this action, Higgs, Fletcher & Mack, and other attorneys with whom they may associate.

Print Name:

Carlotta Blount

Sign Name:

Carlotta Blount

Date Signed:

July 24, 2009

FURTHER INFORMATION REGARDING CONSENT TO SUE FORM

Print Name:

Carlotta Blount

Street Address:

1054 Naomi Drive

City, State, and ZIP:

Vista, CA 92083

Telephone Number(s):

(Home) (760) 295-1679

(Work) (760) 295-0335

(Cell) (760) 586-2782

E-Mail Address:

Carlottablount@hotmail.com

Further Information

- Please see <http://www.higgslaw.com> for more information.
- This lawsuit seeks to pursue the misclassification, overtime pay, benefits, severance, and related claims of various workers employed by ADP and/or ADP contractors as "independent contractors" or "contract employees." This Action alleges that ADP misclassified workers as contract employees and, in doing so, ADP did not provide these employees the wages, benefits, and severance entitled to them.
- This Action also alleges that ADP entered into agreements with companies to provide manpower. Those employees performed a majority, if not all, of their work for ADP, had ADP supervisors, and were directed almost entirely by ADP. This lawsuit alleges that ADP was these individuals' "joint employer." However, ADP misclassified these individuals as "contract employees" or "independent contractors" to avoid providing them the same wages, benefits, and severance provided to ADP employees.
- This lawsuit seeks to enforce the rights of both former and current ADP employees.
- **It is illegal for any employer to retaliate against an individual for exercising his or her rights (such as by participating in this lawsuit, signing or submitting this form, or talking to attorneys about this lawsuit).**
- We are happy to discuss the right to full compensation for work performed with any individual. Please contact us at 619-595-4238.

Instructions for Submitting the Attached Consent to Sue Form

- Feel free to contact an attorney with Higgs, Fletcher & Mack to discuss your rights more fully and to determine if you are eligible to participate in this collective action lawsuit.
- Fax or mail both pages of this form to Higgs, Fletcher & Mack, attention Sam G. Sherman, at 619-696-1410 or 401 West A Street, 26th Floor, San Diego, CA 92101.
- Do not submit these forms directly to a court or judge.
- We will submit consent to sue forms only on behalf of people we have determined have a potentially valid claim, based on what those people have told us about their job duties and other factors. Ultimately, the court will decide if these people can participate in the case or not, and whether their claims are valid.

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

CARLOTTA BLOUNT, on behalf of herself and
on behalf of all persons similarly
situated

(b) County of Residence of First Listed Plaintiff San Diego

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Sam G. Sherman
Higgs, Fletcher & Mack
401 West A Street, Suite 2600
San Diego, CA 92101
619 236 1551

DEFENDANTS

ADP, INC., a New Jersey Corporation;
Wilson Worldwide, LLC, dba Wilson HR; and
DOES 1-50

FILED
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

County of Residence of First Listed Defendant Essex County

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known)

'09 CV 1668 JAH POR

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER/STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 424 Copyrights	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 425 Patent	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 426 Trademark	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 650 Airline Regs.	<input type="checkbox"/> 427 Racketeer Influenced and Corrupt Organizations	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 660 Occupational Safety/Health	<input type="checkbox"/> 428 Consumer Credit	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 429 Cable/Sat TV	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 430 Selective Service	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 431 Securities/Commodities/Exchange	<input type="checkbox"/> 850 Securities/Commodities/Exchange
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 432 Customer Challenge 12 USC 3410	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 433 DIWC/DIWW (405(g))	<input type="checkbox"/> 890 Other Statutory Actions
	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 434 SSID Title XVI	<input type="checkbox"/> 891 Agricultural Acts
	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 435 RSI (405(g))	<input type="checkbox"/> 892 Economic Stabilization Act
	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 436 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 893 Environmental Matters
	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 463 Habeas Corpus - Alien Detainee	<input type="checkbox"/> 437 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 894 Energy Allocation Act
		<input type="checkbox"/> 465 Other Immigration Actions		<input type="checkbox"/> 895 Freedom of Information Act
				<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
				<input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
29 U.S.C. section 201 et seq., 29 U.S.C. section 1101, et seq., 28 U.S.C. section 1367

Brief description of cause:

FLSA collection action for unpaid wages, benefits & severance

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
DEMAND \$ 0.00

☐ CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE 07/31/09 SIGNATURE OF ATTORNEY OF RECORD [Signature]

FOR OFFICE USE ONLY

RECEIPT # 3798 AMOUNT 350. APPLYING IFP Wilson JUDGE Mag. Judge

Court Name: USDC California Southern
Division: 3
Receipt Number: CAS003798
Cashier ID: sramirez
Transaction Date: 07/31/2009
Payer Name: AMERICAN MESSENGER

CIVIL FILING FEE
For: BLOUNT V. ADP INC
Case/Party: D-CAS-3-09-CV-001668-001
Amount: \$350.00

CHECK
Check/Money Order Num: 2407
Amt Tendered: \$350.00

Total Due: \$350.00
Total Tendered: \$350.00
Change Amt: \$0.00

There will be a fee of \$45.00
charged for any returned check.